



OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

R75-506  
75-263  
BRUCE E. BABBITT  
ATTORNEY GENERAL

August 15, 1975

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**ARIZONA ATTORNEY GENERAL**

The Honorable Moise Berger  
Maricopa County Attorney  
101 West Jefferson  
Phoenix, Arizona 85003

Re: Concurring Opinion No. 75-24-C

Dear Mr. Berger:

Returned herewith is a copy of your letter (School Opinion No. 75-24) dated August 14, 1975, directed to Mr. Richard L. Harris, Maricopa County Superintendent of Schools, concerning the opening of the Mobile School.

The Attorney General's office concurs in your opinion.

Sincerely,

BRUCE E. BABBITT  
Attorney General

BEB:ASK:lc

Enclosure



August 14, 1975

School Opinion No. 75-24

Mr. Richard L. Harris  
Superintendent of Schools  
Maricopa County  
Administration Building  
Phoenix, Arizona

Dear Mr. Harris:

This will acknowledge receipt of your letter dated August 14 concerning the plight of the Mobile School District. I understand two trustees of the three man board have resigned, leaving one active member serving on the board. It is your intention to call an election to furnish two members for the board; however that cannot be held sooner than 90 days from the call pursuant to A.R.S. §15-475. Preparations must be started immediately because the date for the opening of school will shortly arrive and it is not possible to wait for the election to start the school year. A genuine emergency exists since under these facts there is no board in existence to operate the school district. Funds are available in the district account to finance the operation of the district for the next school year.

In view of the foregoing facts you have asked whether you have the authority under A.R.S. §11-517 to open, operate and expend funds for the functioning of the school district until the election and qualification of two more members of the school board.

The language of A.R.S. §11-517 qualifies the county school superintendent to act "if the trustees fail to have such school kept".

Since the facts show that there cannot possibly be a functioning board of trustees until after the election, it is clear that the trustees have indeed failed and will fail to start the Mobile School district on its school year. It is therefore my opinion that you qualify under the statute to open and operate the

Mr. Richard L. Harris  
Superintendent of Schools

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school and incur obligations until the election and qualification of the additional members of the school board.

A copy of this opinion is being sent to the Attorney General for his concurrence.

Very truly yours,

MOISE BERGER  
Maricopa County Attorney

Albert Firestein  
Chief Civil Deputy

AF:mfg

cc The Honorable Bruce E. Babbitt  
Attorney General